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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,504	01/16/2004	Kalpesh Mehta	10559/164002/P8248C/Intel	7668

20985 7590 04/17/2007

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EXAMINER	
HSU, JONI	

ART UNIT	PAPER NUMBER
2628	

MAIL DATE	DELIVERY MODE
04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	**Application No.** 10/759,504	**Applicant(s)** MEHTA ET AL.	
	Examiner Joni Hsu	**Art Unit** 2628	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

ULKA J. CHAUHAN
PRIMARY EXAMINER

With regard to Claim 1, Applicant argues that MPEP 2107.01 describes that intermediates lack a utility only when a final product has no utility. In Claim 1, since the final product of management of the display buffer has a specific, substantial, and credible utility, the making of buffer management parameters suitable for management of the display buffer available also has utility (page 16).

In reply, the Examiner points out that MPEP 2107.01 recites "examples of situations that...do not define "substantial utilities"...A claim to an intermediate product for use in making a final product that has no specific, substantial and credible utility." Since the MPEP also recites that all claims must have utility, meaning that all claims must produce a tangible result (MPEP 2106 II A), this means that for a claim to only an intermediate product, the intermediate product itself must have a tangible result. Since the MPEP recites that all claims must produce a tangible result, the passage cited in MPEP 2107.01 is not interpreted to mean that intermediates lack a utility only when a final product has no utility. Instead, it is interpreted to mean that for a claim to an intermediate product, the final product must have a utility and the intermediate product itself must also have a utility, and therefore the intermediate product itself must produce a tangible result. A "tangible result" accomplishes a practical application. By making the buffer management parameters available, the parameters are merely available for management of the display buffer, however, it still unclear as to whether these available parameters will actually be used for the management of the display buffer. Therefore, making the buffer management parameters available is still not considered to be a "tangible result."

With regard to Claim 29, Applicant argues that 35 U.S.C. 101 does not preclude entities that are "completely separate from a computer" from patentability (page 17).

In reply, the Examiner points out that this claim is directed to a computer-related invention, and the MPEP recites that **claims to computer-related inventions** that are clearly nonstatutory include descriptive material that is nonstatutory when claimed as descriptive material per se. In order for functional descriptive material to be statutory, **it must be structurally and functionally interrelated to the computer**, since use of technology permits the function of the descriptive material to be realized (*In re Lowry*, 32 F.3d 1579, 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)). See MPEP 2106.01. Since this claim is directed to a computer-related invention, and could be interpreted in such a way that it is directed to an entity that is completely separate from a computer, it therefore is not structurally and functionally interrelated to the computer, and therefore is non-statutory.

Applicant argues that there is no requirement that a computer read a computer program encoded on a computer-readable medium set forth in the MPEP. Instead, a computer-readable medium encoded with a computer program defines structural and functional interrelationships and hence constitutes patentable subject matter (page 18).

In reply, the Examiner points out that the MPEP sets forth that in order for functional descriptive material to be statutory, it must be structurally and functionally interrelated to the computer (MPEP 2106.01). The way it is written, Claim 29 appears to be claiming the "article" itself, not the storage medium which stores computer-executable instructions. It is unclear as to what an "article" is. For example, an "article" could be taken to be an entity that is completely separate from a computer and simply stores the instructions without the computer reading the

instruction from the entity and executing those instructions. Therefore, there is no clear structural and functional interrelationship between the "article" and the computer. To make it clear that the claim is claiming statutory material, the claim should instead be directed to a computer readable medium storing computer-executable instructions, instead of an article.

With regard to Claims 1, 15, 29, and 43, Applicant argues that Frank's (US006499072B1) data issue delay 24 represents an artificial delay imposed on the issuance of a data read command and is not the time between issuance of a data read command and delivery of display data (pages 20-24).

In reply, the Examiner points out that the claim does not recite that the latency parameter cannot be an artificial delay imposed on the issuance of a data read command. Even though Frank's data issue delay 24 is an artificial delay imposed on the issuance of a data read command, the data issue delay 24 still represents a latency time amount between a display data request and delivery of display data to a display buffer (*delay to variably control the rate at which data is obtained for a memory request, sequencer 20 stores the memory request commands in the memory request command FIFO, it then generates the start cycle data in response to the data issue delay data and in response to the cycle request data that is stored in the memory request input command FIFO, the sequencer produces a frame buffer read control signal 212 and a data select signal 46 in response to the start cycle data and in response to the cycle parameters to select data from the frame buffer based on the data issue delay data,* Col. 4, lines 11-13, 53-62; *frame buffer is coupled to FIFO buffers*, Col. 3, lines 64-67), as recited in the claims.

With regard to Claim 57, Applicant argues that Wang (US005953020A) and Frank do not describe that a maximum amount of time that access to a local memory to obtain data to supply a display FIFO buffer memory may be delayed is determined (page 25).

In reply, the Examiner disagrees. Frank discloses determining the amount of time that that access to a local memory (frame buffer 22, Figure 1) to obtain data to supply a display FIFO buffer memory (52) may be delayed (Col. 4, lines 11-13, 53-62; Col. 3, lines 64-67). The delay is determined so that data collisions do not occur over the memory read backbone (Col. 2, lines 54-56). Therefore, the amount of time that is determined is the maximum amount of time since it is at the threshold of the amount of time at which data collisions do not occur (*data issue rate regulator 16 utilizes a programmable threshold 28 to control the amount of rate regulation, as such, if the threshold 28 is adjusted, the rate at which the sequencer issues read command for the frame buffer will vary accordingly*, Col. 3, lines 22-29; *data issue rate regulator 16 receives the threshold 28 to determine whether a delay is necessary, a larger delay may be necessary if the number of entries that has exceeded the threshold is large whereas a smaller delay may be required if the number of entries exceed the threshold by a lower amount*, Col. 4, line 63-Col. 5, line 17).